

EXHIBIT 7
10F7

July 23, 2012

FOIA Appeal

Sent Via Priority Mail; Del. Con. # 0311 3260 0001 4113 8895

General Counsel

U.S. Postal Service

475 L'Enfant Plaza, SW, Room 6004

Washington DC 20260-1100

Dear General Counsel,

This is an appeal under the Freedom of Information Act, 5 U.S.C. § 552.

On Feb. 19, 2012 I made a FOIA request to your agency for FOIA Case No. 2012-FPRO-00541.

On July 16, 2012, your agency denied and/or claimed exemptions to my request on the grounds that exemptions 3, 5 and 6 apply along with (D9) information that was claimed "**non-responsive**". Copies of my request and the denial are enclosed. Please reference PDF files for all correspondence, up to and including July 16, 2012 Post Office response to FOIA. These PDF files are located on enclosed DVD titled: "FOIA 2012 FPRO 00541). This DVD includes all correspondence between the parties per the requirement of a FOIA Appeal to the US Postal Service.

The information which I have requested is clearly releasable under FOIA and, in my opinion, may not validly be protected by any of the Act's exemptions.

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I trust that upon re-consideration, you will reverse the decision denying me access to this material and grant my original request. However, if you deny this appeal, I intend to initiate a lawsuit to compel disclosure. Hopefully Agency counsel is aware that emails between parties on a government account are fully retrievable under FOIA laws and will not waste the District Court's time trying to claim they are not.

The Agency used Exemptions 3, 5 and 6 along with non-responsive information which was labeled D9 for some unknown reason. I will enclose my reasoning (below) for accepting my repeal and opening up the records under a good faith effort that FOIA encompasses.

Exemption (3) involves "information of a commercial nature including trade secrets, whether or not obtained from a person outside the Postal Service, which under good business practice would not be publicly disclosed".

Certainly any reasonable person can deduce that any email communication between managers and supervisors regarding a craft employee in his capacity as an electronic technician does not fall within the scope of the USPS's listed exemption (3) in the below bullets. No redacted material in USPS response to FOIA-FPRO-00541 could possibly fall under this exemption.

The United States Postal Service's own documentation: **Handbook AS-353 (Exhibit 4-5)** ¹ **Guide to Privacy, the Freedom of Information Act, and**

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Records Management 39 U.S.C. 410(c)(2) specifically cites the following very specific examples of a FOIA 3 exemption:¹

Information of a commercial nature, including trade secrets, whether or not obtained from a person outside the Postal Service, which under good business practice would not be disclosed.

Examples:

- Information about methods of handling valuable Registered Mail.
- Money order records.
- Technical information on postage meters and prototypes submitted for approval before leasing to mailers.
- Market surveys.
- Records indicating rural carrier lines of travel.
- On request, information of a general nature (e.g., an outline of the geographic area served by a particular rural route, the route numbers and number of boxholders or families on each rural route and highway contract route, and the number of families or businesses served within the total delivery area) may be disclosed. Do not disclose detailed information or use Postal Service route maps for this purpose. A map provided by the requester may be marked with the general information. Disclosure is a matter of local discretion when it is determined that to do so would not interfere with Postal Service operations.
- Records that would be of potential benefit to firms in economic competition with the Postal Service.
- Information that could materially increase procurement costs.
- Information that might compromise testing or examination materials.

I fully expect ALL Exemptions claimed under Exemption 3 to be released in their entirety minus any personal telephone numbers or I.P. addresses used in Postal Operations.

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Exemption (5) inter-agency or intra-agency communications that are protected by legal privileges- All e-mails regarding 2012-FPRO-00541 are being requested by Mr. Kirk Tostige and as an individual that has no connection with any policy or decision making process my request should have no bearing on "deliberative" privilege, which covers "predecisional" materials written as part of the decision making process in federal agencies. **As an aside, let me cite AG, Griffin Bell regarding Exemption 5; On May 5, 1977, then Attorney General Griffin Bell wrote the heads of all federal departments and agencies, expressing concern over the volume of FOIA litigation. He announced four criteria which the Department would consider in consulting with agencies and in determining whether to defend agency denials in court. The third criterion, "whether there is a sufficient prospect of actual harm to legitimate public or private interests if access to the requested records were to be granted," was primarily aimed at the unnecessary use of Exemption 5.**

Surely any emails between a manager and supervisor regarding a craft employee would not fall under this exemption. From USPS Handbook AS-353; 4-5.5 Exemption 5 (5 USC 552(b)(5)) — Internal or Interagency Information²

Exemption 5 applies to interagency or internal memoranda or letters that would not be available by law to a private party in litigation with the Postal Service. This incorporates civil discovery privileges, including deliberative process privilege, attorney-client privilege, and attorney work-product privilege. The deliberative process privilege permits withholding of predecisional, deliberative (nonfactual) information such as drafts, internal proposals, estimates, statements of opinion, analysis, advice, and recommendations of agency employees to be used in the decision-making process of an agency. http://about.usps.com/handbooks/as353/as353c4_025.htm

Again, no correspondence in requested email would apply within this exemption. I request all redactions under Exemption 5 to be released minus personal cell phone numbers or medical information. Also, **there is no attorney-client privilege prior to Feb. 14, 2012 regarding any emails between the parties.**

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Exemption (6) information involving matters of personal privacy- The only person whose personal privacy that would be affected is the requester himself (Kirk Tostige) and I hereby grant all rights to disclose any personal information regarding myself. I further attest to hold harmless the US Postal Service and all representatives acting on behalf of the U.S. Postal Service in releasing 2012-fpro-00541 to me, Kirk Tostige.

Exemption 6 permits the government to withhold all information about individuals in "personnel and medical files and similar files" when the disclosure of such information "would constitute a clearly unwarranted invasion of personal privacy."⁽¹⁾ These exemptions are a vitally important part of the FOIA's statutory scheme,⁽²⁾ *but of course they cannot be invoked to withhold from a requester information pertaining only to himself.*⁽³⁾ All social security numbers have been now replaced with employee numbers which are not covered under the Privacy Act or FOIA laws. There are no exempted emails indicating privacy was being invaded, as supplying a persons name and if they attended training obviously in not an exemption covered under this ACT. All exemption 6 redactions should be released, minus any medical information of 3rd parties or personal phone numbers of postal personnel.

I request ALL D9 redactions that the USPS states are purely non-responsive information per the July 16, 2012 response to FOIA Case No. 2012-FPRO-00541. There is some indication that there are even more emails pertaining to this request that were not included in any part of this FOIA request and may have been intentionally deleted. If so, procedures will be followed through to obtain complete records from all servers and with appropriate officials certifying that nothing was deleted during the FOIA process.

I trust that upon re-consideration, you will reverse the decision denying me access to this material and grant my original request. However, if you deny this appeal, I intend to initiate a lawsuit in Middle District of Florida to compel disclosure.

As I have made this request and this information is of timely value, I would appreciate your expediting the consideration of my appeal in

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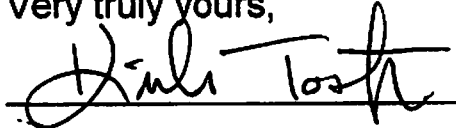
every way possible. In any case, I will expect to receive your decision within 20 business days, as required by the statute.

¹ http://about.usps.com/handbooks/as353/as353c4_023.htm

² http://about.usps.com/handbooks/as353/as353c4_025.htm

Thank you for your assistance.

Very truly yours,

A handwritten signature in black ink, appearing to read "Kirk Tostige", written over a horizontal line.

Kirk Tostige

Enclosure: DVD with 10 files containing all correspondence between Kirk Tostige and USPS from Feb. 29 2012 until July 16, 2012 labeled FOIA 2012 FPRO 00541

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